AMENDMENTS OF BANKRUPTCY RULES.

ORDER, JUNE 1, 1936.

IT IS ORDERED that Rules XII, paragraph 3; XIV; XVII, paragraphs 1 and 7; XVIII, paragraph 4; XXI, paragraph 8; XXVIII; XXIX; XXXVIII; XLII, paragraph 2; XLIV, second paragraph; XLVII; XLVIII; and L, paragraphs 1, 5, 6 and 12, of the General Orders in Bankruptcy be, and they hereby are, amended, effective immediately, to read respectively as follows:

XII

3. Applications for a discharge, or for the confirmation of a composition where the proceeding is had under section 12 of the Act, or for an injunction to stay proceedings of a court or officer of the United States or of a State, shall be heard and decided by the judge. But he may refer such an application, or any specified issue arising thereon, to the referee, or in proceedings under section 77 and section 77 B of the Act, to a special master, to ascertain and report the facts. Unless otherwise ordered by the judge, applications for the confirmation of a debtor's proposal under section 74 of the Act, and all objections thereto, shall be heard and decided by the referee.

XIV

NO OFFICIAL OR GENERAL TRUSTEE

No official trustee shall be appointed by the court, nor any general trustee to act in classes of cases.

XVII

1. The trustee shall, immediately upon entering upon his duties, send notice by mail to the Commissioner of Internal Revenue, Washington, D. C., of the adjudication

AUTHENTICATED
U.S. GOVERNMENT
INFORMATION
GPO

of bankruptcy, and prepare a complete inventory of all the property of the bankrupt or debtor that comes into his possession.

7. This general order shall not apply to reorganization proceedings under section 77 or section 77 B of the Act.

XVIII

4. This general order shall not apply to reorganization proceedings under section 77 or section 77 B of the Act.

XXI

8. The provisions of this general order shall not apply to reorganization proceedings under section 77 or section 77 B of the Act.

XXVIII

REDEMPTION OF PROPERTY AND COMPOUNDING OF CLAIMS

Whenever it may be deemed for the benefit of an estate to redeem and discharge any mortgage or other pledge, or deposit or lien, upon any property, real or personal, or to relieve said property from any conditional contract, and to tender performance of the conditions thereof, or to compound and settle any debts or other claims due or belonging to the estate, the trustee, or the bankrupt or debtor, or any creditor who has proved his debt, may file his petition therefor; and thereupon the court shall appoint a suitable time and place for the hearing thereof, notice of which shall be given as the court shall direct, so that all creditors and other persons interested may appear and show cause, if any they have, why an order should not be passed by the court upon the petition authorizing such act on the part of the trustee. This general order shall not apply to reorganization proceedings under section 77 or section 77 B of the Act.

XXIX

PAYMENT OF MONEYS DEPOSITED

No moneys deposited as required by the Act shall be drawn from the depository unless by check or warrant, signed by the clerk of the court, or by a trustee, and countersigned by the judge of the court, or by a referee designated for that purpose, or by the clerk or his assistant under an order made by the judge, stating the date, the sum, and the account for which it is drawn; and an entry of the substance of such check or warrant, with the date thereof, the sum drawn for, and the account for which it is drawn, shall be forthwith made in a book kept for that purpose by the trustee or his clerk; and all checks and drafts shall be entered in the order of time in which they are drawn, and shall be numbered in the case of each estate. A copy of this general order shall be furnished to the depository, and also the name of any referee or clerk authorized to countersign said checks. This general order shall not apply to reorganization proceedings under section 77 or section 77 B of the Act.

XXXVIII

FORMS

The several forms annexed to these general orders shall be observed and used, with such alterations as may be necessary to suit the circumstances of any particular case. In proceedings under any of the sections of Chapter VIII of the Bankruptcy Act, unless and until the debtor is adjudicated a bankrupt all forms used shall refer to him as a "debtor" and not a "bankrupt" and shall be captioned "In proceedings for a composition or extension," "In proceedings for the reorganization of a railroad," or "In proceedings for the reorganization of a corporation," as the case may be, and not "In bankruptcy."

XLII

2. Except in reorganization proceedings under section 77 and section 77 B of the Act, such petition shall be heard at a meeting of creditors, and the referee in sending the notice of such meeting prescribed by section 58 of the Act shall state by whom and in what amount the allowance of the compensation or reimbursement for expenses is asked.

XLIV

Nothing herein contained shall prevent the court, in proceedings under section 77 or section 77 B of the Act, from authorizing the employment of attorneys who are attorneys of the corporation, or associated with its legal department, in connection with the operation of the business of the corporation by a trustee or trustees under subsection (c) of section 77 and subsection (c) of section 77 B, when such employment is found by the court to be in the public interest in relation to such operation and is not adverse to the interests of the trustee or trustees or of the creditors of the corporation.

XLVII

REPORTS OF REFEREES

The reports of referees in all proceedings under the Act, and of special masters in proceedings under section 77 and section 77 B of the Act, shall be deemed presumptively correct, but shall be subject to review by the court, and the court may adopt the same, or may modify or reject the same in whole or in part when the court in the exercise of its judgment is fully satisfied that error has been committed: Provided, That when any matter is referred by consent of all parties in interest and the intention is plainly expressed in the consent order that the submission is to the referee or master as an arbitrator, the court may review the same only in ac-

cordance with the principles governing a review of an award and decision by an arbitrator.

XLVIII

PROCEEDINGS UNDER SECTION 74 OF THE ACT

The following additional rules shall apply to proceedings under section 74 of the Act:

1. Notice to creditors of the proposed appointment of a custodian or receiver may, in the interests of expedition, be given by publication instead of in writing, if the court so directs.

2. If a custodian or receiver is appointed, the notice of the first meeting which he is required to prepare shall be in form approved by the referee and the date of the meeting shall be fixed by the referee.

3. If the debtor is a wage-earner or a farmer, and any happenings occur which under the provisions of subdivision (l) of said section would otherwise be followed by an order of liquidation, and the debtor does not consent to liquidation, the court shall dismiss the proceedings and notify the creditors accordingly. If a composition or extension proposal is set aside for fraud as provided in subdivision (k) of said section, the case shall be reinstated and such proceedings shall be had as upon denial of confirmation under subdivision (l).

4. The commissions of the referee and of the custodian or receiver shall not exceed those payable to referees and receivers under sections 40 and 48 of the Act in the event of a composition in bankruptcy, and the amount of the debts whose maturity is to be extended shall be included for that purpose as part of "the amount to be paid creditors" within the meaning of those sections, but if the compensation so computed shall appear to be in excess of what is fair and reasonable it shall be correspondingly reduced, the intent of this provision being that the amount of such fees shall be subject at all times to the approval of the court. If the estate is liquidated

under the provisions of subdivision (l) of section 74 of the Act, the referee shall return to the estate any commissions previously received and shall be entitled to commissions on all moneys disbursed to creditors by the trustee as provided in section 40 of the Act.

5. The personal representative of a deceased individual who desires in his representative capacity to effect, under section 74, a settlement or composition of the debts of the estate, shall attach to his petition, in lieu of schedules, the following papers, certified as correct by the court which appointed him (hereinafter referred to as the probate court): (a) a copy of the order of his appointment, (b) a copy of an order of the probate court authorizing him to file the petition, (c) a detailed inventory of so much of the property constituting the estate as under the laws of the State of which the decedent died a resident would be available for creditors, and (d) a list of the names and addresses of the creditors, showing the amounts allowed or apparently owing to each, the nature of the securities or liens, if any, held by each, and the claims which are entitled to priority. If the petition is approved by the judge as properly filed under section 74, the clerk shall file a certified copy of the order of approval with the probate court, and from the date of such order until the case is dismissed the district court shall exercise exclusive jurisdiction over the property required to be listed in the inventory as above provided.

6. Upon the approval of a personal representative's petition the case shall be referred to a referee and proceeded with as in all other cases under section 74 and this general order, except that (a) the original and any amended or supplementary inventory filed by the petitioner with the approval of the probate court shall be deemed to be correct, and no inventory shall be made by the custodian or receiver; (b) all claims allowed by the probate court, and only such claims, shall be allowed by the referee; (c)

the petitioner shall file with the application for confirmation a completed list of the claims allowed up to the date of the application, certified as correct by the probate court; and (d) the clerk shall file with the probate court certified copies of all orders of the referee or judge confirming or denying the proposal, dismissing the proceedings before or after confirmation, or directing liquidation of the estate.

L

1. Upon the expiration of the term of office of a conciliation commissioner, the judge may reappoint him or appoint other or additional conciliation commissioners.

5. The money to be paid upon the confirmation of a composition shall be placed in a depository to be designated by order of the judge, subject to withdrawal by the depositor upon the countersignature of the conciliation commissioner. The judge shall furnish a copy of this general order to the depositories and also the name of any conciliation commissioner whose countersignature is authorized.

6. Application for confirmation shall be filed with the conciliation commissioner who shall forthwith transmit it to the judge with (a) the acceptances, (b) the proofs of claims which have been allowed and those which have been disallowed, (c) a list of the debts having priority, (d) a list of the secured debts, with a description of the security of each, (e) the final inventory, with a list of the exemptions, and (f) a report of the commissioner recommending or opposing confirmation and, in the case of an extension, stating to what extent, if any, it would be desirable for the court after confirmation to retain jurisdiction of the farmer and his property.

12. The twenty-five dollar fees of the conciliation commissioner, and the fees and expenses of the supervisory conciliation commissioner, shall be payable out of appropriated funds in accordance with such instructions as may be issued from time to time by the Attorney General.

It is further ordered that Forms Nos. 65, 72, 73 and 74 of the Forms in Bankruptcy be, and they hereby are, amended and that Form No. 76 be, and it hereby is, approved. The forms to read respectively as follows:

FORM No. 65

DEBTOR'S PETITION IN PROCEEDINGS UNDER SECTION 75 OF THE BANKRUPTCY ACT

To the Honorable ....., Judge of the District Court of the United States for the ..... District of .....:

The petition of ....., of ....., in the county of ....., and district and State of ....., respectfully represents:

That he is primarily bona fide personally engaged in producing products of the soil [*or* that he is primarily bona fide personally engaged in dairy farming, the production of poultry or livestock, or the production of poultry products or livestock products in their unmanufactured state, or the principal part of whose income is derived from any one or more of the foregoing operations] as follows: .....
.....
.....;

that such operations occur in the county [*or* counties] of .....
....., within said judicial district; that he is insolvent [*or* unable to meet his debts as they mature]; and that he desires to effect a composition or extension of time to pay his debts under section 75 of the Bankruptcy Act.

That the schedule hereto annexed, marked "A", and verified by your petitioner's oath, contains a full and true statement of all his debts, and (so far as it is possible to ascertain) the names and places of residence of his creditors, and such further statements concerning said debts as are required by the provisions of said Act.

That the schedule hereto annexed, marked "B", and verified by your petitioner's oath, contains an accurate inventory of all his property, both real and personal, and such further statements concerning said property as are required by the provisions of said Act.

Wherefore your petitioner prays that his petition may be approved by the court and proceedings had in accordance with the provisions of said section.

.....
....., Attorney.

United States of America, District of ....., ss:

I, ..., the petitioning debtor mentioned and described in the foregoing petition, do hereby make solemn oath that the statements contained therein are true according to the best of my knowledge, information, and belief.

.....,

Petitioner.

Subscribed and sworn to before me this ..... day of ....., A. D. 19...

.....,

.....

[*Official character.*]

FORM No. 72

APPLICATION FOR CONFIRMATION OF A COMPOSITION OR EXTENSION PROPOSAL UNDER SECTION 74

In the District Court of the United States for the ..... District of .....

In the Matter of ..... *Debtor* } In Proceedings for a Composition or Extension

To the Honorable ....., Referee in Bankruptcy of the District Court of the United States for the ..... District of .....:

At ....., in said district, on the ..... day of ....., A. D. 19.., now comes ....., the above-named debtor, and respectfully represents to the court that, after he had filed in court a schedule of his property and a list of his creditors, as required by law, he offered a proposal for a composition or an extension to his creditors, which proposal has been accepted in writing by a majority in number of all creditors whose claims have been allowed, including secured creditors whose claims are to be affected by the proposal, which number represents a majority in amount of such claims [*or* and after the first meeting of the creditors, he offered a proposal for an extension to his creditors, which proposal has not been accepted by a majority in number of all creditors whose claims are affected by the proposal, which number represents a majority in amount of such claims, but which proposal includes a feasible method of financial rehabilitation of the above-named debtor and is for the best interest of all the creditors, and includes an equitable liquidation for the secured creditors whose claims are affected]; that the consideration to be paid to the cred-

itors, the money necessary to pay all debts which have priority, and the costs of the proceedings, amounting in all to the sum of ..... dollars, have been deposited, subject to the order of the court, in the ..... Bank, of ....., a designated depository.

Wherefore the said ..... respectfully asks that the said proposal be confirmed by the court.

....., *Debtor.*

FORM No. 73

ORDER CONFIRMING A COMPOSITION OR EXTENSION PROPOSAL UNDER SECTION 74

In the District Court of the United States for the..... District of.....

In the Matter of ..... *Debtor* } In Proceedings for a Composition or Extension

An application for the confirmation of the proposal offered by the debtor under section 74 of the Bankruptcy Act having been filed in court, and it appearing that the proposal has been accepted by a majority in number of creditors whose claims have been allowed, including secured creditors whose claims are to be affected by the proposal, which number represents a majority in amount of such claims; [*or* and it appearing that the debtor, having failed to obtain the acceptance of a majority of all creditors whose claims are affected by the proposal, submitted the said proposal for an extension after the first meeting of the creditors;] and the consideration and the money required by law to be deposited, having been deposited as ordered, in such place as was designated by the said court, and subject to its order; and it also appearing that the proposal includes an equitable and feasible method of liquidation for secured creditors whose claims are affected and of financial rehabilitation for the debtor; that it is for the best interests of all creditors; that the debtor has not been guilty of any of the acts or failed to perform any of the duties which would be a ground for denying his discharge; and that the offer and its acceptance are in good faith and have not been made or procured by any means, promises, or acts contrary

to the acts of Congress relating to bankruptcy: It is therefore hereby ordered that the said proposal be, and it hereby is, confirmed.

Witness my hand, this ..... day of ....., A. D. 19...

....., *Referee in Bankruptcy.*

FORM NO. 74

ORDER CONFIRMING A COMPOSITION OR EXTENSION PROPOSAL UNDER SECTION 75

In the District Court of the United States for the ..... District of .....

In the Matter of ..... *Debtor* } In Proceedings for a Composition or Extension

An application for the confirmation of the proposal offered by the debtor under section 75 of the Bankruptcy Act having been filed in court, and it appearing that the proposal has been accepted by a majority in number of creditors whose claims have been allowed, including secured creditors whose claims are to be affected by the proposal, which number represents a majority in amount of such claims; and it also appearing that the proposal includes an equitable and feasible method of liquidation for secured creditors whose claims are affected and of financial rehabilitation for the debtor; that it is for the best interests of all creditors; and that the offer and its acceptance are in good faith and have not been made or procured by any means, promises, or acts contrary to the acts of Congress relating to bankruptcy: It is therefore hereby ordered that the said proposal be, and it hereby is, confirmed.

Witness the Honorable ....., judge of said court, and the seal thereof, this ..... day of ....., A. D. 19...

....., *Clerk.*

[Seal of the court]

FORM No. 76

APPLICATION FOR CONFIRMATION OF A COMPOSITION OR EXTENSION PROPOSAL UNDER SECTION 75

In the District Court of the United States for the.....
District of.....

In the Matter of
.....
Debtor
} In Proceedings for a Composition or Extension

To the Honorable....., Judge of the District Court of the United States for the.....
District of.....:

At....., in said district, on the.....day of ....., A. D. 19.., now comes ....., the above-named debtor, and respectfully represents to the court that, after he had filed in court a schedule of his property and a list of his creditors, as required by law, he offered a proposal for a composition or an extension to his creditors, which proposal has been accepted in writing by a majority in number of all creditors whose claims have been allowed, including secured creditors whose claims are to be affected by the proposal, which number represents a majority in amount of such claims.

Wherefore the said ..... respectfully asks that the said proposal be confirmed by the court.

.....,
Debtor.

It is further ordered that Form No. 75 of the Forms in Bankruptcy entitled "Petition of farmers for the appointment of a Conciliation Commissioner" be, and it hereby is, abrogated and annulled.

June 1, 1936.